

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23383 of 2004

Between:

Kum.Ponnada Kamala, d/o P.Haranadha Rao,
Chinna Lankam Village, Burja Mandal, Srikakulam District.

..... PETITIONER

AND

The Revenue Divisional Officer, Srikakulam, Srikakulam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly a writ in the nature of writ of mandamus declaring the proceedings Rc.No.1218/2004-H dated 24-7-2004 of the Revenue Divisional Officer, Srikakulam, Srikakulam District as illegal and arbitrary and consequently set aside the same and pass such other order or orders.

Counsel for the Petitioner:MR.A.RAVI SHANKAR

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

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Petitioner is a fair price shop dealer. Her authorization was suspended by the respondent through order, dated 24.07.2004, on the allegations that the rice supplied to her in the year 2003, under food for work programme, was misutilised and that she was not in the shop when the officials visited the Village. Aggrieved by the order of suspension, she preferred an appeal to the Joint Collector, Srikakulam. The appeal was rejected on 02.09.2004, and the respondent was directed to dispose of the case, within thirty days from the date of receipt of the order. This writ petition is filed challenging the order of suspension, particularly in the light of rejection of the appeal preferred by her.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The appeal preferred by the petitioner against the order of suspension was disposed of by the Joint Collector with the following directions:

1. *Remand the case to the Revenue Divisional Officer, Srikakulam, with a direction to dispose of the case within 30 days from the date of receipt of this order.*
2. *The request for grant of stay is rejected.*

Though the matter was remanded to the respondent herein, it was not indicated as to whether the order under appeal was affirmed or set aside. In the ordinary parlance, the remand of a matter by an appellate authority would arise, only

when the order appealed against is set aside. It is true that in the body of the order, the appellate authority observed that he does not see any valid ground to interfere with the orders of the respondent herein. But of the same, unless the result is clearly indicated, it cannot be said that there was valid and proper exercise of appellate powers.

The allegation against the petitioner relates to almost one year prior to the suspension of the dealership. Except stating that the rice meant for food for work was misutilised, nothing was attributed to the petitioner. In that view of the matter, this Court finds that the petitioner deserves to be continued as fair price shop dealer, without prejudice to the proceedings that are initiated against her.

Hence, the writ petition is allowed and the order of suspension passed by the respondent on 24.07.2004 is set aside. Petitioner shall be entitled to function as fair price shop dealer, pending disposal of the proceedings by the respondent herein. There shall be no order as to costs.

L.NARASIMHA REDDY, J

Dated : 16th December, 2004

Note: Furnish copy in

three days

(B/o.)

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To

1 The Revenue Divisional Officer, Srikakulam, Srikakulam District.

2 2CCs to G.P. for Civil Supplies, High Court Buildings,
Hyderabad(OUT).

3 2 CD copies